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Letter dated 11 January 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Senegal, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

02-23126 (E) 250302 150402

Annex

[Original: French]

Letter dated 27 December 2001 from the Permanent Representative of Senegal to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the pleasure, pursuant to the provisions of Security Council resolution 1373 (2001) concerning counter-terrorism, to transmit to you the report of Senegal (see enclosure).

(*Signed*) Papa Louis **Fall**
Ambassador
Permanent Representative

Enclosure

Report by Senegal on the implementation of the provisions of Security Council resolution 1373 (2001) concerning counter-terrorism

Right after 11 September 2001, Senegal, through the voice of the President of the Republic, His Excellency Mr. Abdoulaye Wade, firmly condemned the murderous attacks against the World Trade Center and the Pentagon.

Senegal's commitment to the international coalition against terrorism was confirmed in particular by the convening in Dakar on 16 and 17 October 2001, on the initiative of the head of State, of an African Summit against Terrorism.

The Dakar Declaration against Terrorism, issued at the conclusion of the work of that Summit, allowed Africa to solemnly reaffirm its resolute commitment to the combating of terrorism.

It is in this spirit that Senegal is endeavouring to implement the relevant provisions of resolution 1373 (2001), in particular paragraph 6 thereof.

The present national report highlights the measures and concrete actions undertaken or envisaged by the Senegalese Government in the context of the global struggle against terrorism.

Paragraph 1. Measures concerning the financing of terrorism

Subparagraph (a) — Combating the financing of terrorism

For the purpose of implementing the relevant provisions of Security Council resolution 1373 (2001) relating to the financing of terrorist groups, Senegal's action is being undertaken at two levels.

– *At the domestic level*

At this level, the competent Senegalese authorities have verified, by circular letters Nos. 101 to 109 of 4 October 2001 addressed to directors-general of banks and on the basis of lists drawn up by the European Union, the United States administration and the Central Bank of West African States (BCEAO), that there are no accounts belonging to terrorists or to groups linked to them in Senegalese financial institutions.

In the course of the Dakar Summit against Terrorism, the Senegalese delegation was able to engage in fruitful exchanges with the United States and French delegations regarding the conduct of anti-terrorist activities.

– *Through African subregional and regional bodies*

At this level, the Government of Senegal takes an active part in combating the financing of terrorism.

Thus, the Ministers of Finance of the States members of the Franc Zone, meeting in Paris on 25 September 2001, took the opportunity to express their solidarity with the United States following the attacks of 11 September 2001.

The Ministers also decided to strengthen their action to combat channels for the financing of terrorists.

Concerning the legal apparatus to be put in place, it should be emphasized that Senegal's membership in the West African Economic and Monetary Union (WEAMU) calls for an approach that is in harmony with that of the other States members of the Union.

In this regard, the Governor of BCEAO is to submit for adoption by the WEAMU Council of Ministers draft community regulations relating to the combating of terrorism which will be applicable to all WEAMU States, within the general framework of the campaign that this institution has decided to wage against money laundering.

Furthermore, following the decision of the Conference of Heads of State and Government of the Economic Community of West African States (ECOWAS) of 12 December 1999, the Intergovernmental Action Group against Money Laundering (GIABA) was established to organize and coordinate action to combat money laundering and to propose appropriate legislation for enactment.

On the initiative and under the coordination of Senegal, GIABA has been established with statutes and an already nominated provisional administrative secretary. Activities for awareness-raising among political and economic actors on the dangers and threats that money laundering presents for economies have begun. A training programme for actors is being prepared and will be carried out with international cooperation.

Lastly, a harmonized law on the combating of money laundering which will be applicable to all ECOWAS States is being drafted, with the aim, in particular, of establishing financial intelligence units, mechanisms for reporting suspicions and rules on the seizure and confiscation of assets emanating from money laundering. Both custodial and pecuniary penalties are envisaged.

Subparagraph (b) — Criminalization of the provision or collection of funds intended for terrorist purposes

There are no specific laws in Senegal that govern such activities.

However, certain provisions of the Penal Code, in particular article 80, may serve as a basis for the criminalization of these acts.

Subparagraph (c) — Legislation and procedures for freezing accounts and assets

Under the provisions of article 42 of Act No. 90-06 of 20 June 1990 on banking regulations, banks and financial institutions must provide, upon request from the Central Bank, any information relating to the list of accounts opened on behalf of suspected terrorists or suspected terrorist organizations and must notify the Central Bank of any request for the opening of an account relating to such persons or organizations.

Where necessary, such accounts will come under close scrutiny, and the provisions of the exchange regulations will be strictly applied to any transfer from abroad. Moreover, if such persons have accounts in francs or foreign exchange, they will be immediately closed.

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Furthermore, under the Code of Penal Procedure, banking confidentiality may not be invoked before the judiciary. Consequently, the courts can proceed to freeze the assets of any criminal group identified as such (article 87 bis of the Code of Penal Procedure in the case of an examining magistrate and article 372 bis of the Code in the case of the indictment division).

Circular letters Nos. 101 to 109 of 4 October 2001 were addressed to directors-general of banks requesting them to list and freeze any account opened on behalf of terrorists or groups linked to them.

It should be noted that under its legislation Senegal goes further than freezing assets, by proceeding to seize them (entailing dispossession) pending a judicial decision.

Subparagraph (d) — Measures prohibiting the making available of funds, financial assets or economic resources

There are no specific measures on this subject. However, under the Penal Code such actions may be criminalized either as complicity or concurrence of offences in relation to a principal offence.

Moreover, within the framework of conventions between central banks, foreign authorities may gather financial information on accounts domiciled in Senegal.

Paragraph 2. Legislation to suppress terrorist acts

Subparagraph (a) (i) — Suppressing recruitment of members of terrorist groups

In spite of the firm resolve of the Senegalese authorities to combat terrorism in all its forms, Senegal does not as yet have specific legislation for suppressing recruitment of members of terrorist groups. However, certain provisions contained in the Penal Code, while aimed at repressing criminal acts under ordinary law, may serve as a legal basis for prosecuting activities involving recruitment of members of terrorist groups. Such is the case with regard to the offence of conspiracy.

Subparagraph (a) (ii) — Combating the supply of weapons to terrorists

No specific legislation is yet in force with regard to the supply of weapons to terrorists. However, some provisions of Act No. 66-03 of 18 January 1966 concerning the general rules governing weapons and ammunitions and the Decree implementing it (No. 66-889 of 17 November 1966) relate to the combating and suppression of illegal possession of a firearm by any person whatsoever.

Under these provisions, the possession, bearing, transportation, importation and marketing of weapons and ammunition are subject to prior authorization by the Ministry of the Interior.

In addition, there is the ECOWAS moratorium on illicit traffic in light weapons.

Subparagraph (b) — Other steps taken to prevent terrorist acts

The attacks of 11 September 2001 have indeed triggered off a global campaign against terrorism and promoted a collective awareness of the danger that this scourge represents for peace and security.

However, Senegal did not await these unfortunate events before putting structures in place to combat all forms of terrorist threats.

This resolve has been illustrated, in particular, through the action carried out in the field by the services of the Ministry of the Interior and the Ministry of the Armed Forces.

This action involves not only research and the use of intelligence to detect and evaluate the threat but also the establishment of operational intervention units in the Police, the Gendarmerie and the Army.

In the same area, mention should also be made of the legislation on the entry and departure of aliens, the objective of which is to keep a check on aliens crossing the border and during their stay in Senegal.

Cooperation

The implementation of a security cooperation framework through an ongoing exchange of information on the geopolitics and the activity of terrorist or suspected terrorist networks also comes within this context. As this exchange of information is not subject to any procedure or formality, it ensures rapidity and makes this interdepartmental cooperation more effective.

Subparagraph (c) — Legislation or procedures for denying safe haven to terrorists

Under the Geneva Convention of 1951, the Protocol of 1967 and the Organization of African Unity (OAU) Convention of 1969, to which Senegal is a party, a number of provisions are envisaged for defining and establishing criteria for the granting of a status to applicants for asylum. Within the framework of the implementation of these conventions, Senegal has adopted all these provisions, through its domestic legislation, under Act No. 68-27 of 24 July 1968 establishing the conditions for the granting of refugee status and Act No. 75-109 of 20 December 1975 creating the National Committee on Eligibility for Refugee Status and establishing the modalities for its operation. In this regard, article 1.F of the Geneva Convention, which is incorporated in domestic legislation, may apply for the purpose of rejection or withdrawal of refugee status.

Subparagraph (d) — Legislation to prevent the use of Senegalese territory by terrorists

There is no specific legislation for preventing terrorists from using Senegalese territory for the purposes of committing terrorist acts against other States or their citizens.

However, all the provisions mentioned above in the context of the international conventions and incorporated in domestic legislation implementing them and in certain provisions of the Penal Code may be considered in this light. By way of example we may mention the OAU Convention on the Prevention and Combating of Terrorism and the Declaration on African action to combat terrorism adopted by the African Heads of State participating in the Dakar Summit of 16 and 17 October 2001.

Subparagraph (e) — Establishing acts as criminal offences

Terrorist acts are covered by offences defined in the Penal Code and by some miscellaneous legislation that is not incorporated in the Code.

Such offences may constitute attempts on life (murder, assassination, poisoning, etc.), offences against the person (kidnapping, illegal restraint, destruction, hijacking, etc.) and conspiracy (theft, extortion, etc.).

The manufacture, sale or transportation of explosive machinery, devices or substances and the possession and bearing of prohibited firearms also constitute offences under Senegalese legislation.

With regard to serious criminal offences, an attempted offence is always punishable. In the case of less serious offences, it is punishable if the law so provides.

It remains for Senegal to enact specific legislation on terrorism providing for aggravation of the above-mentioned offences where they are committed as part of a terrorist undertaking.

Subparagraph (f) — Procedures and mechanisms in place to assist other States

Information under this subparagraph may be found above.

Subparagraph (g) — How border controls can prevent the movement of terrorists

Systematic controls are maintained for any entry of aliens by the land, air and sea borders.

This control is applied, first of all, to the document required under Senegalese law for entry into and stay in Senegal. The principal requirement is submission of a valid travel document and an entry visa.

The second stage of the control relates to the authenticity of such documents, which is checked through technical support at the aerial border level and use of an index of stolen travel documents or travel documents reported missing by the issuing authority.

Lastly, the fact that Senegalese diplomatic and consular missions must consult the Ministry of the Interior before issuing visas to nationals of certain countries also constitutes a means of control and an additional guarantee for the precise identification of the visa applicant.

With regard to the issuance of identity and travel documents, Senegal has put in place a safeguard procedure based on a device for the identification of applicants and the establishment of a national index.

Thus, the establishment of a national identity card gives every individual a national identification number comprising several elements. This card is the main administrative backing for the issuance of a travel document, which makes it possible to establish a link between these two documents. Furthermore, the issuance of a travel document is itself subject to a procedure for individual identification of the applicant through assignment of a digital formula.

Lastly, the insertion in each passport page of a security device that is invisible to the naked eye and such that any attempt to tamper with it mars the fabric of the

page constitutes a guarantee of the authenticity of the passport. In this regard, Senegal envisages proceeding to a higher level of secure data storage and creating a new type of passport taking account of additional security requirements.

Paragraph 3. Security cooperation

Subparagraphs (a), (b) and (c)

Under the security cooperation agreements between Senegal and certain countries, which have been extended to others in the light of the attacks of 11 September 2001, exchanges of information take place systematically among the services concerns.

The exchanges cover a variety of fields, in particular the activity of suspected members of terrorist networks, the planning of terrorist projects and threats of terrorist acts in all their forms. These exchanges also concern travel documents that have been stolen or reported missing.

Subparagraphs (d) and (e) — Ratification of international instruments on combating terrorism

Senegal has ratified 4 (four) of the 12 (twelve) United Nations conventions on combating terrorism:

1. 1963 Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft, ratified by Senegal on 28 February 1972;

2. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970, entered into force on 14 October 1971, ratified by Senegal on 14 February 1973;

3. 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation and its 1984 Protocol, ratified by Senegal on 5 January 1973;

4. 1979 International Convention against the Taking of Hostages, ratified by Senegal on 10 March 1987.

Senegal has also ratified the OAU Convention on the Prevention and Combating of Terrorism.

Regarding the other conventions on terrorism concluded under United Nations auspices, including the International Convention for the Suppression of the Financing of Terrorism, the procedure for ratification by Senegal is under way.

In the case of the United Nations Convention against Transnational Organized Crime and its two Additional Protocols, which were signed by Senegal in Palermo, Italy, on 13 December 2000, the ratification procedure has been initiated. The situation is the same with regard to the third Protocol Additional to this Convention relating to the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, adopted by the General Assembly of the United Nations on 31 May 2001.

Following ratification of all the conventions, the necessary measures for their implementation will be taken with a view to fulfilment of the commitments undertaken.

In all instances, the Senegalese Constitution affirms the supremacy of international treaties ratified and published over domestic legislation.

Subparagraphs (f) and (g) — Strengthening of the verification of eligibility for refugee status

The Senegalese laws on political asylum prohibit refugees admitted to Senegal from engaging in any kind of political activity. They would thus lose their refugee status if they participated in terrorist groups or acts, and they could be liable to prosecution, like any other resident in Senegalese territory.

Refugee status is granted only by decision of the President of the Republic, based on the opinion of the National Committee on Eligibility for Refugee Status, which is chaired by a senior judge and consists of representatives of the Ministries of the Interior, Justice and Foreign Affairs.

The Office of the United Nations High Commissioner for Refugees and the International Organization for Migration are also represented on this Committee as observers.

This Committee, which is an impartial and independent body, issues favourable opinions regarding the recognition of refugee status for any persons who fit the definition set forth in article 1 of the 1951 Geneva Convention relating to the Status of Refugees, as supplemented by the 1967 Protocol, or that contained in article 1 of the 1969 OAU Convention. It does so without any restrictive interpretation of these provisions.

In the case of an unfavourable opinion on the part of the Committee, the applicant has the possibility of appealing and also of seeking redress from the President of the Republic or the Council of State.

Assistance

For close on 10 years, Senegal has been making the combating of terrorism a priority.

Over and above vigorous condemnation of the attacks of 11 September, this determination has also been reflected by the decision by the President of the Republic to create a security unit whose principal task will be to detect, evaluate and combat all forms of terrorist threats.

In the light of its commitment and the efforts which it has made, Senegal requires assistance from the international community in two areas:

- Training of management-level personnel through courses and retraining programmes in areas relating to terrorist activity;
- Assistance in the form of technical materials and equipment for improving and strengthening the operational capacities of the services involved. The notorious lack of resources and the obsolete character of the existing ones limit the effectiveness of the performance of those services.

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The Counter-Terrorism Committee has received the attached report from Peru, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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Annex

[Original: Spanish]

Note verbale dated 9 January 2002 from the Permanent Representative of Peru to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of Peru to the United Nations presents its compliments to the Department of Political Affairs — the Counter-Terrorism Committee — and has the honour to transmit the report of the Government of Peru concerning the measures taken for the implementation of Security Council resolution 1373 (2001) in accordance with paragraph 6 of that resolution (see enclosure).

Enclosure

Report submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001)

Pursuant to Security Council resolution 1373 (2001), the Government of Peru provides the following information:

Introduction

Since the early 1980s, Peru has been seriously plagued by terrorism, which exacted a heavy toll, causing more than 25,000 deaths and economic losses totalling over $20 billion. Terrorism caused serious internal insecurity in our country, exacerbating poverty and setting the country back economically.

For the foregoing reasons, Peru is fully aware of the issue of terrorism and understands and supports the international community's efforts to develop cooperation mechanisms among States in the fight against this global scourge.

In response to this internal problem, Peru developed legislation a few years ago to deal with the scourge of terrorism and achieve the goal of maintaining internal security. That goal was finally achieved through the implementation of security and prosecution strategies which were generally successful and led to the capture of the ringleaders and the dismantling of terrorist cells. As a result, the threat of terrorism has been substantially reduced. It should be noted, however, that the security forces also committed excesses which, following the restoration of democracy, are being investigated by the Truth and Reconciliation Commission recently established by the Public Prosecutor's office.

In the early 1990s, and more forcefully since 1992, Peru introduced special penal laws to increase sentences for acts of terrorism, introducing for the first time in the country's history, life imprisonment for some terrorist acts. The general aim was to broaden the circumstances under which terrorist acts were tried and to make the conditions of imprisonment more rigorous, with convicted terrorists being committed to maximum security penitentiaries.

Peru's current problem is not one of a lack of adequate laws to tackle terrorism and its sources of financing. As will be detailed below, such laws are adequate. The remaining challenge is to find legal solutions that are conducive to genuine reconciliation in dealing with the victims of terrorist acts and the excesses committed by the security forces under a democratic system.

Peru has also been engaged in a campaign aimed at warning the international community about and condemning terrorist acts as a potential transnational activity and urging the international community to promote cooperation measures to effectively combat that scourge.

Few countries have been more affected by terrorism than Peru. That is why terrorism remains on the State's agenda as a clear and latent danger that needs to be addressed so as to promote a climate of peace, fraternity and security conducive to the country's long-term social and economic development.

In the light of the foregoing and the guidance established by the Counter-Terrorism Committee, the following is submitted pursuant to paragraphs 1, 2 and 3 of Security Council resolution 1373 (2001):

Resolution 1373 (2001), paragraph 1

Subparagraph (a) — What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1 (b) to (d)?

By legislative decision No. 24811 of 12 May 1988, Peru approved the Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance, adopted on 2 February 1971 at Washington, D.C. and signed by Peru on 8 November 1984.

Moreover, that offence, which was provided for by the Penal Code, was amended by Act No. 24651 of 19 March 1987 and other subsequent acts, which were further amended by Legislative Decree No. 635 of April 1991 enacting the Penal Code.

That legislation was in turn amended shortly thereafter by Decree Law No. 25475 of 5 May 1992, now in force, that punishes crimes of terrorism, including the financing of acts of terrorism, and establishes procedures for investigation and prosecution.

Article 4 of that Decree Law, concerning collaboration, provides that:

> "Anyone who wilfully secures, gathers, collects or supplies any goods or means or in any manner engages in acts such as to further the commission of offences referred to by this Decree Law or furthers the goals of a terrorist group, shall be punished by a term of imprisonment of no less than 20 years".

The above-mentioned article also defines collaboration, inter alia, as:

> "... any kind of economic action, assistance or intervention undertaken voluntarily for the purpose of financing the activities of terrorist elements or groups."

This article applies only to persons who are not members of the terrorist organization, it being understood that whoever repeatedly lends assistance to such organization shall become a member of such organization, in which case they will incur a more severe punishment.

Also, by Supreme Decree No. 084-2001-RE, published on 6 November 2001, the Government of Peru ratified the International Convention for the Suppression of the Financing of Terrorism.

Subparagraph (b) — What are the offences and penalties in your country with respect to the activities listed in this subparagraph?

As mentioned in the foregoing paragraph, in Peru "... any kind of economic action, assistance or intervention undertaken voluntarily for the purpose of financing the activities of terrorist elements or groups shall be punished by a term of imprisonment of no less than 20 years".

Similarly, our Penal Code provides for the offence of laundering the proceeds from narco-terrorism under article 296-B, as amended by Act No. 27225 of 17 December 1999; that offence is punishable by life imprisonment.

Subparagraph (c) — What legislation and procedures exist for freezing accounts and assets at banks and financial institutions?

Since 14 September 2000, serious cases of corruption have been uncovered in the highest levels of Government and the armed forces. Congress, the public prosecutor's office and the judiciary began to conduct investigations whose scope was limited under the law; accordingly, new laws were enacted to permit a more effective investigation into the cases of corruption. Some of the laws relate to the issues raised under this subparagraph. They include:

– Procedural Act No. 27379 providing for special restrictions on rights during preliminary investigations (that covers the offence of terrorism) enacted on 20 December 2000;

Article 1 of the above-mentioned Act, on its scope, states that "The present Act shall apply only to restrictions of rights in the course of preliminary judicial investigations. Such restrictions as are provided for under this Act may be imposed in the following cases: "...(paragraph 3) including the offences of terrorism provided for in Decree Law No. 25475...". The Act also covers offences committed by more than one person or by criminal organizations where public resources are used in the commission of such crimes or where civil servants or public officials or any other persons with the knowledge or agreement of such officials participate in such crime. It also covers crimes against the public service, serious offences, customs offences and tax crime, where such crimes are committed by more than one person or where the perpetrators are members of criminal organizations. The Act also covers illicit drug trafficking, special terrorism, crimes against humanity, and offences against the State and national defence.

After the scope is specified in article 1, the measures which restrict rights during preliminary investigations are spelled out as follows:

"Article 2 — Restrictions on rights — the provincial prosecutor may, in the event of a clear emergency, seek from the criminal court judge a number of restrictions, including the following:

The lifting of bank secrecy and tax confidentiality. "Any provincial prosecutor wishing to seek such measures from the criminal court judge shall show just cause. The criminal court judge shall grant such request should he deem the measures necessary and relevant to clarify the facts under investigation. Where bank secrecy is lifted, the order shall include the accounts linked to the person under investigation even if they are not registered in his name. The prosecutor may ask the judge to freeze the accounts. The latter measure may apply for up to two weeks; in exceptional cases it may be extended for a further period of two weeks upon a request by the provincial prosecutor and a reasoned decision of the criminal court judge. Where tax secrecy is lifted, the order may cover companies or legal persons who, for any reason, are linked to the investigation and shall consist of the surrender to the prosecutor of any tax information, documents or statements."

It should be noted, however, that the current law does not provide for the freezing of funds and other financial assets held by international organizations or entities of which Peru is a member, except with a court order.

Consequently, the Government of Peru, through the Ministry of Economic Affairs and Finance and the Superintendence of Banking and Insurance, is promoting a bill to regulate the manner of implementation of preventive measures taken pursuant to decisions or resolutions adopted on this subject by international bodies or entities such as the United Nations; this bill is to be submitted shortly to the Congress of the Republic of Peru.

Subparagraph (d) — What measures exist to prohibit the activities listed in this subparagraph?

As mentioned above, article 4 of Decree Law No. 25475, concerning collaboration, states that:

> "Anyone who wilfully secures, gathers, collects or supplies any goods or means or in any manner engages in acts such as to further the commission of offences referred to by this Decree Law or furthers the goals of a terrorist group, shall be punished by a term of imprisonment of no less than 20 years".

The following constitute acts of collaboration:

> "(a) The supplying of documents or information on persons, assets, installations, public or private buildings or anything else that specifically assists or facilitates the activities of terrorist groups or elements.
>
> "(b) The transfer or use of any type of lodging or other means susceptible of serving to conceal persons or store weapons, explosives, propaganda, provisions, medicines or other items connected with terrorist groups or with their victims.
>
> "(c) The intentional transport of persons belonging to terrorist groups or connected with their criminal activities and the rendering of any kind of assistance to help them to flee.
>
> "(d) The organization of courses or the managing of centres for the indoctrination and instruction of terrorist groups, operating under any cover.
>
> "(e) The manufacture, acquisition, possession, theft, storage or supplying of arms, ammunition or explosive, asphyxiating, inflammable, toxic or any other type of substances or objects that might cause death or injury. The possession or concealment of arms, ammunition or explosives belonging to the armed forces or the National Police of Peru constitutes an aggravating circumstance.
>
> "(f) Any form of economic assistance, aid or mediation provided or done voluntarily for the purpose of financing the activities of terrorist groups or elements."

It must be noted that this article applies only to acts committed in Peruvian territory.

Security Council resolution 1373 (2001), operative paragraph 2

Subparagraph (a) — What legislation or other measures are in place to give effect to this subparagraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

In Peru, Act No. 25475 contains the principal offences under which the crime of terrorism is repressed. Under article 5 of that Act the perpetrator is liable to punishment by virtue of the mere fact of belonging to a terrorist group, and article 7 condemns statements in favour of terrorism. These two articles are aimed at preventing the recruitment of terrorists. In addition, Decree Law No. 25880 provides penalties for statements in favour of terrorism by teachers or professors, with a view to preventing them from influencing their students.

Article 4 (e) of Act No. 25475 considers the supplying of arms, explosives, etc., for terrorist purposes, as an act of collaboration. Also punishable under that article are acts of collaboration of another type. It should pointed out that what is involved here are criminal acts committed in Peruvian territory.

In addition, under our legislation there exist offences such as the illegal possession of arms, provided for in article 279 of the Penal Code, which establishes penalties for the illegal possession and manufacture of arms, ammunition and explosives; inflammable, asphyxiating or toxic substances; substances or materials intended for their preparation. The penalty ranges from 6 to 15 years' imprisonment.

In addition, on 20 September 1996, Legislative Decree No. 846, which repealed Decree Law No. 25643, was promulgated. The Legislative Decree prohibits the free importation and marketing of ammonium nitrate and of the components which enter into its preparation, in any form or presentation and under any name. The undeclared or illegal possession of ammonium nitrate and of the components which enter into the preparation of that product and the use thereof for acts of terrorism are liable to criminal charges and punishable, depending on the gravity of the offence, in accordance with Decree Law No. 25475. The National Police, acting in conjunction with the representative of the Public Prosecutor's Office, is required to take preventive measures to prevent or report the concealment of ammonium nitrate.

Similarly, Decree Law No. 25707 (regulated by Legislative Decree 846 of 1996) — declaring the use of explosives for civilian use and other related materials a matter of urgent concern at the national level — was promulgated on 31 August 1992 as part of the country's anti-subversive strategy. Its purpose was to increase control measures in the manufacture, marketing, transport, warehousing, use and destruction of explosive devices for civilian use and the inputs that may enter into their manufacture. The Directorate for Control of Security Services and Civilian Use of Weapons, Munitions and Explosives of the Ministry of the Interior has been charged with establishing control mechanisms in coordination with other authorities of other ministries.

Legislative Decree No. 654 (Penal Execution Code) was approved in September 1991. This decree provides that persons in prison for crimes of terrorism or high treason shall not enjoy the benefit of reduction of their sentence through work or education, though this does not imply any loss of access thereto.

In Peru, the competent authority for the implementation of the measures mentioned is the Ministry of the Interior, which, pursuant to Legislative Decree No. 370 of 4 February 1986 is the public organ in charge of activities connected with governance, internal security, police function, identification, migratory movement and naturalization. Its organizational structure comprises the following executive bodies:

General Directorate of Governance, the body in charge of the handling of political authorities at the national level. Its functions include the obtaining of information that is transmitted to the competent organs for processing and use.

Directorate of Migration and Naturalization, which is in charge of migratory control and naturalization processes. Recourse is had to this Directorate for obtaining the information needed for the investigation of persons, whether nationals or aliens, with a view to establishing their qualifications and migratory movements.

Directorate of Intelligence, the body that is in charge of the intelligence system of the Ministry of the Interior and represents the sector before the National Intelligence Council. Its purpose is to produce strategic intelligence for the top management of the Ministry, which includes the handling of information relating to terrorism.

General Directorate of the National Police of Peru, the purpose of which is to guarantee domestic order, the free exercise of the fundamental rights of individuals and the normal conduct of civic activities.

It has executive organs (the Police Regions), which are non-central bodies for police coverage of the entire national territory, and specialized directorates, which are the executive/normative/technical organs for specific matters, one of which is the Counter-terrorism Directorate, which is charged with preventing, fighting, investigating and reporting the crime of terrorism in accordance with the legal provisions in force.

Directorate for Control of Security Services and Civilian Use of Weapons, Munitions and Explosives, which is the highest-level entity for the control of security services and the control and issuance of permits for the use of arms, ammunition and explosives for civilian use.

Subparagraph (b) — What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other States?

The Counter-terrorism Directorate of the National Police of Peru, mentioned above, is the specialized directorate that acts on its own initiative or at the request of a regional headquarters, with the knowledge and authorization of the General Directorate of the Police, anywhere in the national territory in order to prevent, investigate, fight and report the crime of terrorism. In performing its functions, it coordinates at all times with other specialized headquarters operating at the regional, departmental and provincial levels.

For dealing with cases connected with international terrorism there exists, within its organizational structure, the International Terrorism Division. The obtaining of information is divided among the Police Intelligence System, the Intelligence System of the Ministry of the Interior and the National Intelligence System.

When information relating to other States is obtained, the appropriate coordination is effected with the parties concerned following an evaluation to determine whether there exist international legal instruments that might accelerate the related procedure. Any action taken in this regard is treated as confidential.

In Peru, the Higher and Provincial Public Prosecutor's Office also deals with cases of terrorism. Through the Office of the Special Prosecutor for Terrorism, ongoing coordination takes place with the National Counter-terrorism Directorate with a view to investigating any events (trafficking in persons, forging of passports and visas, trafficking in arms, ammunition, explosives, etc.) that might bear any relation to activities intended to support terrorist groups. After 11 September 2001, the work of prevention was expanded to include possible acts of international terrorism, a task requiring the amendment of some laws.

Subparagraph (c) — What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this subparagraph?

At border crossing points and places where arrivals in and departures from Peru take place (ports and airports) the Directorate of Migration and Naturalization has offices to control nationals and aliens entering or leaving the country. The related information is coordinated with the sub-units of the Judicial Police Directorate of the National Police of Peru, a specialized directorate charged, among other things, with the execution of judicial warrants. The object is to apprehend persons who are sought for one reason or another in order that they may be placed at the disposal of the judicial authorities. In addition, a register is kept of persons wanted by the International Criminal Police Organization (Interpol).

The situation of aliens during their stay in the country is followed by another specialized directorate of the National Police of Peru, the Directorate of State Security, through the Immigration Division. In the event that the irregular presence of any alien is detected, steps are taken to make him or her available for expulsion, in accordance with the Aliens Act (Legislative Decree No. 703 of 14 November 1991).

Such administrative operative mechanisms constitute the normal control procedures. Should the Counter-terrorism Directorate have a special interest in or suspicions regarding any alien, it coordinates with the competent specialized units and/or directorates and special joint operations are set up to take the necessary action.

In respect of aliens, article 30 of the Penal Code provides for expulsion from the country as a punishment supplementary to imprisonment. This rule applies to sentences imposed for the crime of terrorism.

In addition, article 21 of the regulation governing the juridical situation of refugees and persons granted political asylum in Peru (Supreme Decree No. 001-85-RE) states the following: "... when there are justifiable grounds for considering that in his country of origin, last country of residence or any other country a person committed a serious offence under the ordinary law requiring international prosecution, in particular those of terrorism and drug trafficking, that person shall not be considered a refugee."

Subparagraph (d) — What legislation or procedures exist to prevent terrorists acting from your territory against other States or their citizens?

Article 338 of the Peruvian Penal Code defines the perpetration, within the territory of the Republic, of any act intended to change the political organization of a foreign State through violence as an "offence jeopardizing the foreign relations of

the State". Such an offence (conspiring against a foreign State) is punishable by imprisonment for up to five years. Consequently, if terrorists act within the national territory in order to carry out acts of terrorism in other countries, their acts will be covered by this law.

Furthermore, Decree Law No. 25475, referred to above, specifically states in its article 2 that anyone who "carries out acts against the life, physical integrity, health, freedom or security of individuals or against property ... or affects the international relations or safety of society or the State ..." shall be deemed to have committed the crime of terrorism. Consequently, the legal system in force empowers the National Police to intervene and report to the Public Prosecutor's Office with a view to denouncing terrorists when they act within national territory.

Reference must also be made to the situations mentioned in article 5 of Decree Law No. 25475, which provides penalties for membership in a terrorist group, no distinction being made between national and foreign groups.

In the history of counter-terrorism in Peru one notes, among other things, that in 1987 action was taken on the Pucusana-Lima beach and three top leaders of the terrorist organization known as "Alfaro Vive, Carajo!", of the Republic of Ecuador, were arrested. They were not committing acts of terrorism in Peru, but were using Peruvian territory to escape Ecuadorian justice. In addition, it was ascertained that they maintained relations with the terrorist organization Movimiento Revolucionario Túpac Amaru (MRTA).

Subparagraph (e) — What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts?

Decree Law No. 25475 also establishes the penalty for terrorist offences and the procedures for investigation, preliminary hearings and trial.

A few months after its promulgation, however, on 12 August 1992, Decree Law No. 25659, providing regulations on the crime of high treason, was promulgated. This offence is an aggravated form of terrorism. Article 1 of the Decree Law provides as follows: "The crime of high treason is constituted by the commission of the acts provided for in article 2 of Decree Law No. 25475, when the following modalities are employed:

> "(a) The use of 'car bombs' or similar devices, explosives, weapons of war or the like, causing death to individuals, injury to their physical integrity or mental health or damage to public or private property or likely in any other manner to cause serious danger to the population;
>
> "(b) The unlawful possession or storage of explosives, ammonium nitrate or components entering into the manufacture thereof or the voluntary provision of inputs or components capable of being used in the manufacture of explosives for use in the acts referred to in the preceding subparagraph."

Article 2 of Decree Law No. 25659 states: "The following shall be deemed to have committed the crime of high treason:

> "(a) Anyone who belongs to a leadership group of a terrorist organization, be it as leader, head or the like;

"(b) Any member of an armed group, gang, death squad or similar group of a terrorist organization, being charged with the elimination of persons;

"(c) Anyone who provides or spreads reports, data, plans, projects or other documentation or allows terrorists access to buildings or premises in his charge or care in order to promote the results referred to in subparagraphs (a) and (b) of the foregoing article."

Article 3 states that the applicable penalty for the crime of high treason is life imprisonment, as established in subparagraph (a) of Decree Law No. 25475. This penalty is applicable in cases where the perpetrator belongs to the leadership of a terrorist organization, be it as leader, head, chief, secretary or in any other similar capacity, at the national level, there being no distinction as to the function he performs in the organization. The same applies if the perpetrator is a member of an armed group, gang, death squad or the like, of a terrorist organization, entrusted with the physical elimination of defenceless persons or groups of persons, irrespective of the means employed.

The persons sentenced to life imprisonment include the following: Manuel Rubén Abimael Guzmán Reinoso, alias "Presidente Gonzalo", and Elena Albertina Iparraguirre Revoredo, alias "Camarada Miriam", both top leaders of the terrorist organization Shining Path; and Victor Polay Campos, alias "Comandante Rolando", and Peter David Peabody Cárdenas Schulte, alias "Gringo", top leaders of MRTA. In the penal establishments of Peru there are a total of more than 380 male and more than 50 female inmates sentenced to life imprisonment.

The Office of the Public Prosecutor conducts preliminary investigations and intervenes from the outset in cases involving this offence. During the present year 515 investigations have been opened; the number increased after 11 September.

Subparagraph (f) — What procedures and mechanisms are in place to assist other States?

In the international sphere, Peru has signed a number of agreements with several States to facilitate coordination and information-exchange activities. However, even where no agreement exists with the State concerned, Peru can act on the basis of the principle of international reciprocity.

Among the existing agreements, mention may be made of the following:

- With Colombia: the Convention on Judicial Assistance in Criminal Matters, signed at Lima on 12 July 1994;
- With Venezuela: the Convention on the Execution of Penal Sentences, signed at Caracas on 12 January 1996;
- With the United States of America: the Treaty of Extradition, signed in July 2001;
- With Canada: the Treaty on judicial assistance in criminal matters, signed on 27 October 1998; Peru also has a Treaty of extradition with Great Britain, signed in 1904 and applicable to Canada as a member of the British Commonwealth of Nations; mention might also be made of the Treaty on the execution of criminal sentences, signed in April 1980;

- With Guatemala: the Agreement on judicial assistance in criminal matters, signed on 16 April 1998;
- With El Salvador: the Agreement on judicial assistance in criminal matters, signed on 13 June 1996;
- With Cuba: the Agreement on judicial assistance in criminal matters, signed on 15 February 1999.

As mentioned, terrorists of other countries have been arrested in Peru and action has been coordinated with the respective embassies through the National Police of Peru and the Ministry of Foreign Affairs with a view to carrying out actions between Governments.

In addition, members of the National Police of Peru have travelled abroad to coordinate operative aspects of the fight against terrorism. One example of this occurred in Bolivia in 1995 on the occasion of the kidnapping of the former minister of industry of that country, in which members of the terrorist organization MRTA participated. The operation culminated in the capture of 80 per cent of those responsible. Subsequently, in 1997, an exchange of information between Peru and Bolivia made it possible to capture Junzo Okudaira, a member of the Japanese Red Army, in Bolivia.

In practice, in the fight against terrorism, frequent exchanges of information take place at the international level through Interpol.

Subparagraph (g) — How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery?

Peru has a migration control system. In large population centres there is a relatively adequate infrastructure, such as that existing at Lima's Jorge Chávez International Airport.

The controls are intended to prevent the movement of terrorists to and from Peru. They are somewhat limited, however, inasmuch as they take the form of manual checking by migration officers. The National Police of Peru, moreover, has a list (in some places computerized and in others manually prepared) of persons who are wanted, with orders for their capture or detention by the judicial authorities or Interpol.

In the past, criminal organizations have been discovered that were dedicated to trafficking in migrants. They slipped past border controls, provided protection inside the territory and even facilitated the issuance of papers and/or offered facilities to enable persons to move to other countries. These are the criminal networks that might possibly be used by terrorists to enter, reside in and leave Peru.

It is known, moreover, that terrorist organizations have "documentation centres" where they forge documents, thus permitting changes of identity and immigration status and even the use of those false documents for legally obtaining other, officially issued, documents.

Another technique used by terrorists is the obtainment of forged or adulterated documents. It will be recalled that in 1995, the Japanese Red Army terrorist known as "Akita", apprehended in Romania, was carrying a Peruvian passport bearing the

name María Yamamura, which had been issued officially, but was subsequently stolen, in Lima, Peru.

Peruvian passports are produced with the use of internationally accepted security features, but budgetary limitations still do not permit the establishment of totally systematized control. Consequently, it is possible to circumvent controls.

It should be mentioned that at present, in South America as in other parts of the world, various processes of integration are under way to promote the creation of common markets, with the consequent free transit of persons. Such developments will render strict control of migratory movements between neighbouring countries difficult and will require joint measures to prevent the circulation of terrorist elements.

Security Council resolution 1373 (2001), operative paragraph 3

Subparagraphs (a), (b) and (c) — What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in these subparagraphs?

No specific measures have been adopted in addition to those already in existence. Peru reiterates that it is ready to cooperate with the United Nations in every way possible, and the President of the Republic will state this in the General Assembly of the United Nations. This has taken concrete form in the election of Col. Benedicto Jiménez to the group of experts that will advise the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism.

The Ministry of the Interior is able, through its general directorates, and specifically the National Police of Peru, the Directorate of Migration and Naturalization and the Directorate for Control of Security Services and Civilian Use of Weapons, Munitions and Explosives, to provide information and cooperation in both the administrative and operational spheres when so requested.

Subparagraph (d) — What are your Government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this subparagraph?

Peru, on the occasion of the participation of the President of the Republic in the general debate of the fifty-sixth session of the United Nations General Assembly, deposited the instruments of ratification of the following international instruments: the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism, thereby completing the ratification of the 12 conventions adopted to date within the United Nations.

Subparagraph (e) — Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this subparagraph.

The Government of Peru is developing internal legislation to ensure full compliance with the international conventions and Security Council resolutions on terrorism.

Subparagraph (f) — What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status?

The Aliens Act (Legislative Decree No. 703), mentioned above, establishes the rules for the entry, stay, residence and control of aliens in the territory of the Republic and provides regulations governing their legal status there. Articles 29 and 30 of the said Act prohibit the entry into the country of alien fugitives from justice who are being prosecuted in other countries for crimes which are defined as under the ordinary law according to Peruvian legislation that are punishable by imprisonment or more severe penalties, as in the case of the crime of terrorism.

Subparagraph (g) — What procedures are in place to prevent the abuse of refugee status by terrorists?

Article 44 of the Aliens Act provides that the Ministry of Foreign Affairs, after assessment and in accordance with the law and the conventions in force in the Republic, has the power to grant political asylum and refugee status to aliens who so request and to decide the forfeiture thereof. In addition, there exists a Single Text of Administrative Procedures of the Ministry of the Interior relating to the Directorate of Migration and Naturalization in which details are provided on the migratory control of the entry and exit of aliens.

Lima, 7 January 2002.

Office of the Director for Political, Multilateral and Security Affairs — UN